

CERTAIN EMPLOYEES OF THE DEPARTMENT OF THE  
NAVY AT THE UNITED STATES NAVAL GUN FACTORY,  
WASHINGTON, D. C.

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APRIL 23, 1958.—Committed to the Committee of the Whole House and ordered  
to be printed

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Mr. CRETELLA, from the Committee on the Judiciary, submitted the  
following

REPORT

[To accompany H. R. 8231]

The Committee on the Judiciary, to whom was referred the bill (H. R. 8231) for the relief of certain employees of the Department of the Navy at the United States Naval Gun Factory, Washington, D. C., having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, after "Navy", strike out "as a result of an error in" and insert in lieu thereof "resulting from".

At the end of the bill add:

(c) If a person named in subsection (a) has refunded to the United States all or a part of the overpayment with which this Act is concerned, the Secretary of the Treasury is authorized to pay, out of any money in the Treasury not otherwise appropriated, to that person the amount he repaid.

The purpose of the proposed legislation is to relieve the persons named therein from all liability to make refund to the United States of certain overpayments which resulted from their conversion from prevailing rate positions to positions subject to the Classification Act of 1949, as amended.

A letter addressed to the chairman of the committee from the Comptroller General of the United States, dated August 27, 1957, gives in detail the history of this proposed legislation and has included a copy of letter to the author of the bill, stating all the facts. After a careful review of this letter and enclosures, your committee concurs in its recommendation. Letters are as follows:

## CERTAIN NAVAL GUN FACTORY EMPLOYEES

GENERAL ACCOUNTING OFFICE,  
COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, D. C., August 27, 1957.

HON. EMANUEL CELLER,  
Chairman, Committee on the Judiciary,  
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of August 19, 1957, acknowledged August 20, requests a report of the facts together with our opinion of the merits of H. R. 8231, for the relief of certain employees of the United States Naval Gun Factory. The bill would relieve the persons named therein from all liability to make refund to the United States of certain overpayments which resulted from their conversion from prevailing rate positions to positions subject to the Classification Act of 1949, as amended.

The Honorable Joel T. Broyhill, House of Representatives, requested that our Office advise him whether there was an administrative remedy available for the granting of relief to the employees involved or whether it was necessary to enact legislation in their behalf. On July 29, 1957, we advised Mr. Broyhill that it is our view that under existing law there was no authority for our Office to relieve the employees in question, but that we would be sympathetic toward any legislation introduced in their behalf. Representative Broyhill's office has advised us informally that there would be no objection to furnishing your committee with a copy of that letter. We therefore enclose a copy of our letter of July 29, for your information and consideration. As indicated in the letter we interpose no objection to the bill's receiving favorable consideration by your committee.

As a technical matter, however, we note that many of the overpayments involved were not the result of an error in the conversion of the employees' position from the wage board system to one subject to the Classification Act, although all of such overpayments did, in a broad sense, result from such a conversion. We therefore suggest that the words "resulting from" be substituted in lieu of the words "as a result of an error in" appearing in line 6 on page 1 of the bill.

Sincerely yours,

JOSEPH CAMPBELL,  
Comptroller General of the United States.

GENERAL ACCOUNTING OFFICE,  
COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, July 29, 1957.

HON. JOEL T. BROYHILL,  
House of Representatives.

DEAR MR. BROYHILL: Your letter of May 24, 1957, last acknowledged July 15, regarding overpayments to about 46 employees of the Naval Gun Factory, requested our thorough review of the case to determine whether an administrative remedy granting relief to such employees is available. You say that it is your purpose to introduce relief legislation, should we be without authority to grant the relief.

By administrative regulations, the Department of the Navy established for its ungraded (wage board) employees a system of periodic promotions comparable with the within-grade promotion system authorized by section 701 of the Classification Act of 1949. Under the Department's system, wage-board adjustments of compensation are not "equivalent increases in compensation" so as to prolong the waiting time (52 weeks) for periodic promotions. When an ungraded employee is converted or transferred to a Classification Act position, however, any wage-board increase that equals or exceeds a step increase accruing within the waiting period is, in absence of statutory exemption, an "equivalent increase," such as to bar a periodic promotion. This situation arose from the statutory provision requiring as a condition to eligibility for a within-grade promotion under the Classification Act that an employee shall not have received an equivalent increase from any cause within the waiting period.

In the Federal Employees Pay Act of 1945, and thereafter until 1951, each pay increase act affecting employees under the Classification Act expressly exempted the increases authorized from being construed as equivalent increases. Thus, employees under the Classification Act may be converted to wage-board positions without loss of waiting time because an increase authorized by statute prior to the transfer or conversion is not an "equivalent increase." By Public Law 201, 82d Congress, approved October 24, 1951, which increased the salary rates of Classification Act employees, the "equivalent increase" exemption was made permanent legislation. Section 701 of the Classification Act of 1949 was amended to read as follows:

"Any increase in compensation granted by law after June 30, 1951, shall not be construed to be an equivalent increase in compensation within the meaning of subsection (a)." [Italic supplied.]

We have had no occasion to examine thoroughly the amendment made by the 1951 act and considerable thought has been given to the question of whether the language "any increase in compensation granted by law after June 30, 1951," could not be construed to include wage-board increases as pay increases granted by law. In that regard we consulted informally with representatives of the Department of the Navy and the Civil Service Commission and, generally, their views may be said to have been favorable to such a consideration.

The amendment to section 701, however, was the subject of comment by the committee in House Report 959, 82d Congress, 1st session, which is as follows:

"The bill also adds a new subsection (b) to section 701 of the Classification Act of 1949, as amended. Section 701 provides for within-grade step increases in compensation for employees at the expiration of certain stipulated periods on condition that 'no equivalent increase in compensation from any cause was received during such period.' This provision (which was also contained in the Classification Act of 1923) has made it necessary in the past to include in each act providing an increase in rates of compensation for employees subject to the Classification Act of 1923 and, since the repeal of such act, the Classification Act of 1949, a declaration that such increase in rates shall not be construed to be an 'equivalent increase' in compensation within the meaning of the appropriate section of the Classification Act of 1923 or the Classification Act of 1949. Furthermore, the Comptroller General has held in a ruling (B-85380) dated May

13, 1949, that an employee transferred from the filed service of the Post Office Department to a position under the Classification Act was not entitled to receive a within-grade salary advance because the pay increase such employee had received by law less than a month prior to his transfer was considered to be an 'equivalent increase in compensation from any cause.' The new subsection (b) provides that any increase in compensation *granted by act of Congress* after June 30, 1951, 'shall not be construed to be an equivalent increase in compensation' within the meaning of the present section 701. This language will safeguard on a permanent basis the right of employees subject to the Classification Act of 1949, as amended (including employees who transfer, or are transferred, to positions under such act after June 30, 1951), to within-grade step increases in compensation without regard to *any increase in compensation which they may have been granted by law.*" [Italics supplied.]

A study of that report leads us to the view—though not without some doubt—that the committee in recommending the amendment had in mind that the term "increases granted by law" was to be synonymous with the language "increases granted by acts of Congress," appearing in the report. We reluctantly are led to the conclusion that under existing law increases granted by wage boards to ungraded employees must be viewed as "equivalent increases" when considered in connection with the conversion or promotion of such employees to Classification Act positions. Thus, we are without authority to grant the relief desired by administrative measures.

We would be sympathetic toward any legislation introduced for relief to the employees referred to above and, further, we recommend for your consideration the desirability of legislation resolving any doubt whether wage-board increases should in any circumstances be construed as "equivalent increases" in compensation.

There are approximately 11 employees covered by your letter who received unlawful increases upon conversion because of errors other than those referred to above. At the time of the conversion of these employees to Classification Act positions the increased Classification Act rates authorized by the 1955 Pay Act were then in effect. The compensation adjustment upon conversion should have been accomplished by a direct comparison of the then existing wage-board rates with the Classification Act rates created by the 1955 Pay Act. Instead, the wage-board rates of these employees were adjusted to compare with the then obsolete rates of the 1951 act and were adjusted upward by the amount of the increase authorized by the 1955 Pay Act. The result was to place these employees one salary step above the rate to which they are entitled. In view of the nature of the error, which we feel must have been as apparent to the employees concerned as to the officials responsible, we are doubtful whether equitable considerations warrant continuation of the higher rates even though relief be granted for past overpayments. It is possible that the perpetuation of the unauthorized rates may be preferential and harmful to the morale of other employees of the Naval Gun Factory who are now receiving the proper rates.

The enclosures transmitted with your letter of May 24 are returned herewith as requested.

Sincerely yours,

JOSEPH CAMPBELL,  
Comptroller General of the United States:



## CERTAIN NAVAL GUN FACTORY EMPLOYEES

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[Enclosure 1]

## List of employees notified of overpayment

Name	Address	Amount due as June 1, 1957				
		For straight time	For holi-day	For night work	For over-time	Total amount due
Alexander, Ross W.....	624 Chesapeake St. SE., Washington, D. C.	\$350.14	-----	-----	-----	\$350.14
Cunningham, Ernest R.....	1821 18th St. SE., Washington, D. C.	116.58	-----	-----	-----	116.58
Fauntleroy, Robert W.....	5013 Lackawanna St., College Park, Md.	192.03	\$0.48	\$0.08	\$23.76	216.35
Grant, Harry F.....	6007 Hemming St., Bethesda, Md.	321.78	-----	-----	-----	321.78
Lee, Fleming T.....	Bureau of Ships.	202.41	-----	-----	-----	202.41
Lilley, Edward R.....	Savage Gilford Rd., Box 117, Jessup, Md.	508.62	-----	-----	-----	508.62
Lloyd, Albert H.....	1733 Minnesota Ave. SE., Washington, D. C.	394.44	-----	-----	13.68	408.12
Mills, Raymond R.....	632 North Illinois St., Arlington, Va.	321.78	-----	-----	-----	321.78
Noll, William H.....	4415 44th St., Arlington, Va.	134.94	-----	-----	3.60	138.54
Phillips, Thornton A.....	914 17th St., South Arlington, Va.	322.53	-----	-----	-----	322.53
Riggles, Gordon L.....	3800 13th St., South Arlington, Va.	368.94	-----	-----	-----	368.94
Snipes, Howard.....	1509 T St. SE., Apartment 3, Washington, D. C.	181.65	-----	-----	-----	181.65
Arnold, David B., Jr.....	515 Harvard Dr., Alexandria, Va.	88.23	-----	-----	-----	88.23
Blosse, Alfred N.....	2325 Kirby Dr., Marlowe Heights, Md.	114.18	-----	.12	7.67	121.97
Carlton, James W.....	3802 Edison St., Alexandria, Va.	129.75	-----	-----	-----	129.75
Carson, Albert W.....	7225 Glenridge Dr., Hyattsville, Md.	114.18	-----	-----	.20	114.38
Cornwell, Raymond F.....	235 Mississippi Ave. SE., Washington, D. C.	171.61	.56	5.79	30.37	208.23
Dwiggins, Marion L.....	9800 51st Ave., College Park, Md.	88.23	-----	-----	-----	88.23
Felton, Leslie W.....	2118 Pemmit Dr., Falls Church, Va.	88.23	-----	-----	-----	88.23
Gardiner, Gwyn E.....	7902 Landsdale St., District Heights, Md.	83.04	-----	-----	-----	83.04
Gates, Raymond F.....	223 Afton St. SE., Oxon Run Hills, Md.	129.75	-----	-----	-----	129.75
Hall, William T.....	7214 Maywood St., Glenridge, Hyattsville, Md.	88.23	-----	-----	-----	88.23
Hodges, Harry J.....	5342 Chesapeake Rd., Hyattsville, Md.	88.23	-----	-----	-----	88.23
Jenkins, Edward J.....	5012 37th Ave., West Hyattsville, Md.	88.23	-----	-----	-----	88.23
Killion, George W.....	Box 764, Route No. 2, Fairfax, Va.	88.23	-----	-----	-----	88.23
Lee, John E., Jr.....	321 Lisle Ave., Falls Church, Va.	114.18	-----	-----	10.08	124.26
Link, George O.....	5918 85th Ave., Carrollton, Lanham, Md.	88.23	-----	-----	-----	88.23
Markham, William E., Jr..	933 Rollins Dr., Bucknell Manor, Alexandria, Va.	88.23	-----	-----	-----	88.23
Milstead, J. Woodrow.....	Bryans Rd., Indian Head, Md.	52.00	-----	-----	-----	52.00
Morris, Bruce B.....	101 Uhler Ter., Alexandria, Va.	88.23	-----	-----	-----	88.23
Mudd, George B., Jr.....	2104 T St. SE., Washington, D. C.	83.04	-----	-----	-----	83.04
Neal, Leon W.....	1250 Oates St. NE., Washington, D. C.	72.66	-----	-----	.72	73.38
Pritchard, James R.....	7658 Old Fort Rd., Washington, D. C.	88.23	-----	-----	-----	88.23
Pursel, Myron G.....	2446 Owens Rd. SE., Washington, D. C.	83.04	-----	-----	-----	83.04
Reinhardt, Eugene C., Jr..	4905 N St. SE., Washington, D. C.	83.04	-----	-----	-----	83.04
Roland, Earl W.....	205 Woodley Dr., Alexandria, Va.	129.75	-----	-----	-----	129.75
Search, Harry E.....	5011 Cushing Dr., Garrett Park, Md.	88.23	-----	-----	-----	88.23
Shatnick, John.....	5516 2d St., Temple Hills, Md.	129.75	-----	-----	-----	129.75
Sholtis, Joseph R.....	2203 LeGrande Ave., Alexandria, Va.	15.57	-----	-----	2.88	18.45
Simone, Ralph M.....	6303 E St., Capitol Heights, Md.	129.75	-----	-----	-----	129.75
Spence, James F.....	R. F. D. No. 1, Jessups, Md.	88.23	-----	-----	-----	88.23
Taylor, Wilbur J.....	3909 70th Ave., Landover Hills, Md.	83.04	-----	-----	-----	83.04
Trainor, E. Kenneth.....	909 Yuma St. SE., Washington, D. C.	246.33	-----	-----	-----	246.33
Viens, Dennis A.....	9729 51st Pl., College Park, Md.	41.52	-----	-----	3.20	44.72
Waesche, George E.....	7305 Gateway Blvd., District Heights, Md.	88.23	-----	-----	-----	88.23
Wheeler, Fred H.....	12031 Dalewood Dr., Wheaton, Md.	88.23	-----	-----	-----	88.23

## CERTAIN NAVAL GUN FACTORY EMPLOYEES

[Enclosure 2]

*List of employees not notified of overpayment*

Name	Address	Amount
Jefferson, Herbert M.	200 E. St. NW	\$33.44
Lewis, John T.	5506 Central Ave. SE	30.80
Acs, Kalman J.	721 F St. SW	48.40
Stanford, Franklin P.	9610 Lorain Ave., Silver Spring, Md	30.80
Springfellow, Charles E.	1026 Westlawn Dr., Falls Church, Va	48.40
Kravitsky, Steve	316 Carmody Hill Dr., Seat Pleasant, Md	187.20
Carter, Henry C.	4910 1st St. NW	30.80
Queen, Norman T.	120 16th St. SE	62.40
Urquhart, Alexander T.	3436 24th St. SE	57.60
Roebuck, John W.	4711 Jay St. NE., Apartment 1	31.20
Mobley, John M.	826 11th St. NE	31.20
Miller, John C.	4814 Fox St., College Park, Md	102.40
Morgal, Russell M.	4209 72d Ave., Landover Hills, Hyattsville, Md	62.40